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OCTOBER 1996 HELENA, MONTANA VOL. X NO. 17

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REVENUE OVERSIGHT COMMITTEE

Committee to Meet October 18...The Revenue Oversight Committee is scheduled to meet Friday, October 18. The morning session will be devoted to a joint presentation by the National Conference of State Legislatures and the accounting firm Deloitte-Touche on electric utility restructuring and implications for state tax policy. Please note that the Committee will meet at 9 a.m., in the Bollinger Room located in the Public Service Commission (Vista Building), 1701 Prospect Avenue, Helena, MT.

The Committee will reconvene at 1 p.m. in Room 437 of the State Capitol. The Committee will consider draft legislation regarding the taxation of motor vehicles. The Committee will also review the scope of tax agreements entered into by the Department of Revenue.

For further information about the meeting, please contact Jeff Martin at the Legislative Services Division, (406)444-3064.

Committee Reviews Taxation of Motor Vehicles and Trailers...Last fall, the Revenue Oversight Committee decided that motor vehicle taxation, including passenger vehicles, heavy trucks and certain trailers, should be one of its policy priorities. In early January 1996, Committee staff asked several individuals and motor vehicle associations to assist the Revenue Oversight Committee in its consideration of motor vehicle taxation. This "motor vehicle taxation group" includes employees of the Departments of Revenue, Justice, and Transportation as well as a representative from the Montana Automobile Dealers Association and representatives of the trucking industry. The advisory group has completed its work and has made three recommendations to the Committee.

Committee Hears Recommendations...At the Revenue Oversight Committee's September 19 meeting, the motor vehicle advisory committee presented a recommendation to revise the taxation of motor vehicles having a rated capacity of more than 1 ton (heavy trucks). Under current law, heavy trucks registered in a county for in-state use are taxed as class eight property for property tax purposes and are subject to state, county, and other local mill levies. Class eight trucks are valued according to average wholesale value. Heavy trucks used in interstate commerce are also taxed as class eight property. However, these trucks are valued based on acquisition cost. In addition, they are subject to a statewide average mill levy. Heavy trucks operating in Montana are thus valued differently and taxed differently depending on whether they are used exclusively in-state or are used in interstate commerce. In an effort to equalize the taxation of heavy trucks, the advisory committee recommended that all heavy trucks be taxed on a flat fee schedule, based on the manufacturer's rated capacity and on the age of the vehicle. In addition, the advisory committee recommended that personal property attached to the vehicle be exempt from taxation.

Larry Finch, Office of Research and Information, Department of Revenue, presented an analysis of the revenue neutral flat fees based on 1995 law (using the class eight tax rate of 9%). These flat fees incorporate the value of personal property attached to the vehicles. Under the proposal, there would be some tax shifting between vehicles. Some counties would receive slightly more revenue and others slightly less. If the proposal is adopted, the flat fees would be one-third less than the fees contained in the analysis so as to be commensurate with the reduction in class eight tax rates to 6% in tax year 1998.

Committee Requests Legislation...Following Finch's presentation and supporting testimony from members of the advisory committee (including representative of the trucking industry and the Departments of Transportation, Justice, and Revenue), the Revenue Oversight Committee requested draft legislation that would implement the proposal.

The Committee also requested draft legislation to implement a recommendation presented at the Committee's August 26 meeting to revise the taxation of passenger vehicles. Under this proposal passenger vehicles would be taxed at 2% of the depreciated value of the manufacturer's suggested retail price. Passenger vehicles would be subject to one of four statutorily determined depreciation schedules depending on whether the vehicle is a passenger car, light pickup, van, or "sport utility" vehicle. Finally, the Committee requested draft legislation to revise the taxation of trailers weighing less than 26,000 pounds. In lieu of a property tax, these trailers would be subject to a fee based on age and weight.

Committee Approves 3 Bills...The Committee approved three bills for introduction in the 1997 Legislative Session:

- Exempt recreational leases from the beneficial use property tax unless the lessee has exclusive use of the property. (See the March 1996 issue of *The Interim* for prior coverage.)
- Revise the distribution of the metal mines tax by providing that 15.5 percent of the metal mines tax is distributed in the same manner as the resource indemnity and ground water assessment tax.
- Clarify that the average levy applied to railroad car property is the average statewide levy for commercial and industrial property.

COMMITTEE ON STATE MANAGEMENT SYSTEMS

Committee Makes Recommendations...The Committee on State Management Systems met on Tuesday, August 27 and on Friday, September 6 in Helena. The main order of business at both meetings was to discuss and take action on recommendations from the three task forces commissioned by the Committee. In total, the task forces made 22 recommendations. With some minor revisions, the full Committee adopted 21 of the recommendations.

Included among the major recommendations are:

- The Department of Administration should hire a consultant to provide long-term, architecturally and technologically sound options for reengineering the state's financial management systems. The options should include flexibility to accommodate future changes in the state's infrastructure and/or strategic initiatives as state government changes. The contract should provide for delivery of a comprehensive report prior to the 1997 Legislature convening, and be used as the basis for Executive Branch (appropriation) recommendations. (This effort, called the MT PRIME project, is under way.)
- The 1997 Legislature should establish an ongoing interim subcommittee, consisting of two members each of the Legislative Finance and Audit Committees and of four other legislators, to provide oversight between the next three legislative sessions. The subcommittee would receive status reports from the Department of Administration regarding the reengineering effort and address

information technology issues facing state and local governments. (Draft legislation is available for review.)

- The legislative leadership, with consultation and recommendations from the Legislative Finance Committee, should establish a distinct process to consider/review enterprise technology issues (including funding initiatives related to Information Technology) separate from the regular subcommittee process and should be initiated early in the 1997 legislative session or even prior to the session convening.
- The Legislature should adopt statutory changes to revise budgeting statutes to provide general guidance and flexibility in budgeting while maintaining accountability and control; to eliminate obsolete language; and to generally modernize the budgeting statutes. (Draft legislation is available for review.)
- The Department of Administration, with consultation from the Information Technology Advisory Council (ITAC), should adopt goals for a new budget system and endorse the redesign efforts of the Office of Budget and Program Planning (OBPP) and the Legislative Fiscal Division (LFD). (NOTE: This system is being developed and Phase I may be operational as this newsletter is distributed.)
- The Committee acknowledges the importance of revenue collection and other "single agency" systems, and that these systems should be included in any long-range system integration plan, with emphasis placed on those that must interact with major statewide management systems.
- The Committee agreed that the interface of state personnel systems with the Statewide Budget and Accounting System be improved; that online access to information and reports be improved and expanded; and that improvements be made to transactions to allow more decentralized maintenance of information. Particular emphasis should be placed on improvements to the position control portion (of P/P/P), including developing a temporary, replacement position control.
- The Department of Administration should complete a study to redesign or replace the P/P/P system with a human resource system integrated with other financial management systems. The integrated systems should provide decision guidance to agency managers and flexible access to a variety of employee information and provide central policy makers with accurate, reliable, and

timely data to enable audit and analysis of pay practices and budget management.

- The Department of Administration, with consultation from the ITAC, should develop and adopt Information Management Principles for managing data as a state resource. These Principles should embrace data policies and standards, application development and management, data access, IT standards, data integrity and security, and data sharing.
- The Department of Administration should undertake a study of the utility and cost-effectiveness of the concepts of an enterprise-wide Information Resource Management Plan for state systems.
- The Department of Administration should complete a study to determine the applicability and potential for the adoption of an enterprise-wide Information Resource Management Program. If determined practical and appropriate, the Department should develop a plan, with cost estimates, to implement the Program.
- The Information Services Division (ISD) should develop and maintain a database (inventory) of state applications that describes the state's applications, gives the cost of development and maintenance, gives FTE's assigned to application maintenance, describes the platform on which the application is running, and describes how each application integrates with other systems, etc.
- The ISD should identify common agency administrative applications or functions that could be developed as an enterprise-wide application, such as inventory, personnel, pre-payroll, procurement, etc.
- Interagency and intergovernmental partnerships and agreements should be created for developing shared (software) applications. A process for implementing this recommendation should be developed by ISD and presented to ITAC for review and discussion.
- The ISD, other agencies, and local governments should continue to research emerging technologies and develop strategies and cost benefit analyses for utilizing these technologies enterprise-wide. This research and the strategies developed should be presented to ITAC and the Information Technology Managers Group (ITMG) for review and discussion.

- The Legislature should consider creating the capacity and a forum for local government interaction with the state's IT enterprise. (Draft legislation is available for review.)

Committee Acknowledges Participants...The Committee concluded its work by acknowledging the contribution and effort of the members of the Task Forces, including the Task Force Co-Coordinator: Taryn Purdy (LFD) and Steve Bender (OBPP), Budgeting Task Force; Connie Griffith (ISD) and Scott Seacat (LAD), Accounting Task Force; and Linda Belflower (ISD), Jim Oppedahl (Justice) and Gordon Morris (MACo), Data Management Task Force.

Question regarding the Committee may be directed to Dave Bohyer at the Legislative Services Division, (406)444-3064.

COMMITTEE ON INDIAN AFFAIRS

Committee Meets in Helena...The Committee on Indian Affairs held its fifth meeting of the interim on Friday, September 13 in Helena. The Committee heard from the new Coordinator of Indian Affairs, the Crow Tribe, the Salish and Kootenai Tribes, and the Child Support Enforcement Division of the Department of Public Health and Human Services. For the remainder of the meeting, the Committee considered recommendations regarding Senate Joint Resolution No. 11.

Committee Hears From Coordinator...Wyman McDonald, the newly appointed Coordinator of Indian Affairs, made some introductory remarks to the Committee. Mr. McDonald is from the Confederated Salish and Kootenai Reservation. He worked for many years for the Bureau of Indian Affairs and as the Tribal Health Director for the Confederated Salish and Kootenai Tribes. Mr. McDonald said that during the period that he worked in South Dakota, Governor George Mikelson declared a Year of Reconciliation between the state of South Dakota and the Indian people of South Dakota. Mr. McDonald told the Committee that he wished to build on that reconciliation theme during his tenure as the Montana Coordinator of Indian Affairs.

Crow Tribe Makes Presentation...Arlo Dawes, administrative assistant to the Chairwoman Clara Nomee of the Crow Tribe, spoke to the Committee about issues of concern to the Crow Tribe. He discussed the negotiations between the state and the Crow Tribe over gaming and the land exchange. He also talked about the Crow Coal Case and the implications for the state. The state and Big Horn County owe the Tribe

about \$58 million in taxes and over \$200 million in interest. The state is appealing the case to the U.S. Ninth Circuit Court.

On the issue of education, Mr. Dawes stated that there is an abysmal lack of knowledge about Indians on the part of the general public. He also stated that Indian children are losing their native language and that the state should provide funding for tribal language teachers. He also expressed concern over Indian children being placed in special education classes simply because they do not learn like non-Indian children do. He said that non-Indian teachers need to understand how Indian children learn rather than labeling them as learning impaired.

Tribal Education Director Makes Presentation...Kevin Howlett, Tribal Education Director for the Confederated Salish and Kootenai Tribes, made a presentation to the Committee on education issues of concern to the Tribes. He said one of the biggest problems facing Indian tribes is the large number of Indian students who do not finish school. Last year on the Salish and Kootenai Reservation only 46 tribal members graduated from eight high schools. Test scores show that Indian students score the same as or above non-Indian students in the primary grades. However, beginning in fourth grade, Indian students' test scores begin to slip.

Indian children are taught by their elders to listen to understand, not to listen to respond. Non-Indian teachers do not understand this and label Indian children as unresponsive and unable to learn. The schools of education in Montana, by their own admission, do not prepare teachers for the cultural diversity they will find in their classrooms. Therefore, more Indian teachers are needed. The Salish and Kootenai Tribes have developed a teacher training program for Indians in conjunction with Salish-Kootenai College.

Mr. Howlett said that the constitutional provision calling for the preservation of the cultural integrity of American Indians was more than just a "feel good" provision. He applauded the Committee for its efforts to address the implementation of the provision.

Committee Discusses Child Support Enforcement...Mary Ann Wellbank, Administrator of the Child Support Enforcement Division of the Department of Public Health and Human Services, made a presentation on how her agency handles child support cases that involve Indians. Child support enforcement is authorized by Title IV-D of the Social Security Act. The program receives 60% of its funding from the federal government and 40% from state special revenue. Custodial parents receiving AFDC are required to use the services of the Division. Other parents can request the Division's services. The Division is currently handling about 44,000 cases of which 6,000 involve at least one Indian parent. Before taking a case, the Division requires the parent to fill out an affidavit. An Indian parent must provide additional information in order for the Division to ascertain if it has jurisdiction.

Ms. Wellbank admitted that the Division could do a better job of handling its Indian cases. The Division acknowledges the sovereignty of Indian tribes and will not pursue cases unless the Division has clear jurisdiction. The Division is in discussions with the Blackfeet, Fort Peck, and Salish and Kootenai Tribes in an attempt to negotiate agreements so that the Division may handle the cases. There is only one child support enforcement agreement in the nation between a state and an Indian tribe: New Mexico and the Navajo Tribe.

Committee Considers SJR 11 Recommendations...The Committee spent the remainder of the meeting discussing recommendations regarding SJR 11. The recommendations were divided into three areas: Indian history and culture classes, teacher education, and Indian studies requirement for teachers. After much discussion, the Committee directed staff to draft three resolutions and one bill. Staff will circulate the resolutions and the bill to the appropriate agencies and interested persons for comment.

The Committee will hold its final meeting of the interim on Tuesday, October 22. At that time, the Committee will take testimony and review the comments on the proposed legislation and then make its final decisions.

For further information about the proposed legislation or the October 22 meeting, please contact Connie Erickson at Legislative Services Division, (406)444-3064.

CAPITOL RENOVATION

Work Begins on Capitol...Work on the Capitol building began in earnest in September. Visitors to the building will find ample evidence of their tax dollars at work.

Windows...The original wood windows on the east and west wings of the building are being stripped of their lead-based paint prior to removal for renovation. One window has been removed as a test for both the restoration work and color checking the new insulated glass. More windows will be removed and repaired in early October, and the work will continue into the early winter.

Plaster cuts and ceiling modifications necessary for the replacement of the aluminum windows in the original building are nearing completion. The new wood windows will be ordered as soon as shop drawings are completed and the color of the new glass is approved for matching the glass being installed in the original windows. Installation is expected to begin in late November and continue throughout the winter.

The new window openings are different sizes than the old aluminum window openings necessitating the purchase of new window coverings. At the same time, the old venetian blinds in the wings will be removed. Commercial grade miniblinds will be installed throughout the building to provide a uniform appearance in public areas and to reduce maintenance costs. Approved variations from the miniblind standard (such as the new wood blinds in the Governor's reception room) can be requested, with any additional costs to be borne by the requesting agency.

Roof...The roof repair and replacement began in September and will continue throughout October and possibly into November. This is the messiest portion of the exterior work, and people parking at the Capitol are warned that floating tar-based debris may damage the finishes on their cars. Legislators working at the Capitol may choose to park across the street rather than directly behind the building.

Sound System...RLS Acoustics completed sound testing in the House Chambers and the 312 room complex this month, and design and bid documents are currently under development. A late November installation is projected.

Planning...Department of Administration personnel met with the Legislative Council in September to discuss space allocation in the Capitol. The interior renovation work provides an opportunity to better serve the public and legislators by reallocating current committee rooms and creating new meeting spaces. Further discussions regarding legislative space will occur at the Council's October 5 meeting.

ENVIRONMENTAL QUALITY COUNCIL

EQC to Meet in October...The Environmental Quality Council will meet on Friday, October 4 in Room 104 of the State Capitol from 8:30 a.m. to 4:15 p.m. The Council will review the draft Compliance and Enforcement Subcommittee's findings/recommendations. The EQC will also review recommendations of the Resource Indemnity Trust Fund Subcommittee as well as the Bill Drafting Subcommittee. The Council will receive updates on the indicators publication, Senate Bill 382, Major Facility Siting Act Collaborative, the EQC's remaining water policy statutory obligations, and the Pony Mill clean-up. The EQC will also hear a presentation on the legislative history of the Resource Indemnity Trust Fund.

Compliance and Enforcement Subcommittee Prepares Findings...The Compliance and Enforcement Subcommittee's next scheduled meeting is Thursday, October 3 in Room 104 of the State Capitol from 8:30 a.m. to 4:30 p.m. The Subcommittee met previously on September 12 to draft its preliminary study findings and recommendations. At its October 3 meeting, the Subcommittee will refine and complete a draft of its study findings and recommendations to submit to the EQC. The EQC will review those draft findings and recommendations on October 4, then submit them to the public for a 30-day comment period. The Subcommittee and the EQC will then finalize those findings and recommendations on November 14 and 15.

Privatization Subcommittee Formed...The Compliance and Enforcement Subcommittee appointed a four person subcommittee consisting of Rep. Dick Knox, Rep. Vicki Cocchiarella, Rep. Scott Orr, and Rep. Debbie Shea to meet with Directors Bud Clinch of Natural Resources and Conservation and Mark Simonich of Environmental Quality to discuss issues regarding outside contracting and privatization. This Subcommittee will meet on Wednesday, October 2 from 3 p.m. to 5 p.m. in Room 104 of the State Capitol.

Indicators Subcommittee to Meet...The Montana Environmental Indicators Subcommittee will meet upon adjournment of the Compliance and Enforcement Subcommittee in Room 104 of the State Capitol on October 3. The Subcommittee will provide comments on the draft indicators publication that is scheduled to be distributed October 31.

Resource Indemnity Trust (RIT) Subcommittee Submits Recommendations...The Legislative Finance Committee (LFC) and the EQC have jointly formed a four-person RIT Subcommittee to provide recommendations on what the state should do about potential imbalances between revenue and expenditures of the various funds that receive RIT interest and tax proceeds. The Subcommittee met on September 18. It developed some preliminary recommendations to be submitted to the LFC and the EQC. Specifically, the Subcommittee will recommend that the scope of RIT fund allocations should be narrowed.

Environmental Self Audit Working Group Continues Work...As a part of the HJR 10 Compliance and Enforcement study, an EQC working group has been evaluating the merits of providing incentives for individuals and businesses to perform environmental self auditing. This group has met four times and is currently producing a draft working document. The working group's next meeting has not yet been scheduled.

For further information regarding the EQC or the various subcommittees, please contact the EQC staff at (406)444-3742.

SUBCOMMITTEE ON THE FOREIGN INVESTMENT DEPOSITORY

Subcommittee Holds Final Meeting...The Subcommittee on the Foreign Investment Depository held its final meeting of the interim on Wednesday, September 11. Following a staff review of the draft enabling legislation and comments by representatives from the Justice, Commerce, and Revenue departments, as well as from the Governor's Office and the Montana Bankers' Association, the members voted unanimously to recommend the draft as a Committee bill.

Staff Continues Work on Bill...The Subcommittee decided not to designate an individual sponsor and against preintroduction in order to allow for minor modifications prior to the opening of the next legislative session. The members authorized staff to continue working with state officials and take into consideration recommendations from other reviewers (including agents of the U.S. Treasury Department) with a view toward the resolution of several lingering issues pertaining to regulatory procedures and liability. As a consequence, minor changes to the draft bill will continue to be made until the final report on the Subcommittee's work is published in November.

The current draft bill and the minutes from the September 11 meeting are available to interested persons. Please contact Stephen Maly at the Legislative Services Division, (406)444-3064.

JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

Commission Holds Final Meeting...The Juvenile Justice and Mental Health Study Commission held its final meeting September 9 and 10. The findings and recommendations will be published in a final report by December 1, and many of the recommendations will be presented to the 1997 Legislature in approximately 10 pieces of legislation.

Commission Makes Recommendations...The Commission adopted a recommendation to substitute the phrase and concept of "youth in need of intervention" for "youth in need of supervision" and to provide an additional level of resource for Youth Court. The recommendation includes the following items:

- (1) Changes definition of delinquent youth to include a felony juvenile offender, a misdemeanor juvenile offender, a youth who violates a consent decree or an informal consent adjustment, or a probation violator.
- (2) Authorizes a youth assessment officer, appointed by a Youth Court Judge, to provide initial intake and evaluation for a youth who commits a status offense or who is referred by a parent or guardian, school representative, or law enforcement officer. (In some jurisdictions, this youth assessment officer may be the juvenile probation officer.)
- (3) Authorizes a youth assessment center or program licensed by DPHHS as a youth care facility. It would be a staff-secured location in which a youth may be confined for up to 10 days to ascertain a youth and a youth's family's needs. It provides an alternative level of placement between shelter care and detention and a place for multidisciplinary assessment of a youth and a youth's family.
- (4) Specifically includes runaways and habitual truants in the definition of "youth in need of intervention."
- (5) Allows an assessment officer to conduct preliminary investigations, using a probable cause hearing to place a youth in an assessment center.
- (6) Provides a clearer progression of graduated sanctions. Proposes informal consent adjustment as the first level of disposition for a youth, following placement in an assessment center. Violation of that informal consent adjustment could trigger the next level of sanctions, using existing sanctions such as probation, in-state residence, commitment to the Department of Corrections (excluding placement in a youth correctional facility), restitution, community service, etc.
- (7) Allows the court to order the youth or the youth's parents or guardians to pay all or part of the costs for the adjudication, disposition, supervision, care, custody, and treatment of the youth or for the victim's counseling.
- (8) Allows a deferred imposition for a 45 day placement evaluation, though status offenders may not be placed at a state youth correctional facility for evaluation.

Commission Recommends Revisions to Youth Court Act...The Commission included in its recommendations many general revisions to Youth Court Act. The changes would:

- (1) provide that violation of a valid court order would return a youth to Youth Court to face sanctions;
- (2) authorize the appointment of judges pro tempore and special masters (attorneys) to conduct preliminary nondispositive matters;
- (3) include accountability in the list of crimes that can be filed in District Court;
- (4) allow the county attorney to file for leave to file information directly in District Court for serious offenses;
- (5) limit the use of an informal consent adjustment and a formal consent decree to the equivalent of a single felony for each;
- (6) increase the time for short-term detention from 96 hours (4 days) to 10 working days;
- (7) allow detention for formal consent decrees up to 10 days and for informal consent adjustments up to 3 days;
- (8) amend into 41-5-523, MCA, that "parents have an obligation to assist and support the Youth Court in implementing its orders concerning a youth under its jurisdiction and are subject to the Court's contempt powers if they fail to do so";
- (9) make explicit the rights of victims in the Youth Court Act and cross references victims' rights language enacted last Legislative Session into the Youth Court Act; and
- (10) generally reorganize the Youth Court Act.

Commission Proposes Other Legislative Changes...The Commission is also proposing other legislative changes that would:

- (1) Give District Court Judges the authority under 41-5-523, MCA, to require the successful completion of sex offender treatment for adjudicated youth sex offenders before the youth is discharged.

- (2) Provide that special education tuition that is charged to an out-of-district student be placed in the miscellaneous fund to be used for specific education costs incurred by the district providing the alternative service.
- (3) Provide that school records, the permanent file, and the special education file be transferred to the receiving school or licensed detention center within 5 working days of request. The files must include regular education records and any of the following information that is in the student's file: special education test scores, original immunization records, and information regarding psychological tests, medical information, etc.
- (4) Provide that public schools, OPI, and Youth Court be included in information sharing for common clients with the Department of Corrections and the Department of Public Health and Human Services through interagency agreements; use of existing teams, such as youth placement committees, county interdisciplinary child information teams, and child protection teams; and computer databases (CAPS). The Commission encourages cooperation and collaboration while protecting an individual's right to privacy. The information shared should be on a need-to-know basis. The school representatives who are involved in the information sharing and on the teams should have personal knowledge of and experience with the student. There must be strict professional standards so that the information is used for professional purposes only. Parents shall have the right to review the information and to be notified of that right and to include a written response or clarification in the file.
- (5) Authorize a Judicial Pilot Project for families involved in Youth Court and other human services to provide a single point-of-entry through a community team, to utilize juvenile assessment program and family coordination teams, and to allow special masters or court magistrates to assist Youth Court judges in handling nondispositive preliminary matters or in conducting research.
- (6) Mandate imposition of a 0.1% tax on vehicles with the revenues to be used for Youth Court funding.
- (7) Amend 41-5-208, MCA to give juveniles the same due process rights as adults. If the Barz decision is upheld by the Montana Supreme Court, amend the Extended Jurisdiction

Prosecution Act to reflect the provisions in Texas statute regarding the maximum sentence possible.

Commission Makes Other Recommendations...In addition to legislation, the Commission:

- Supports the Department of Public Health and Human Services' proposal to increase chemical dependency funding for adolescents by \$200,000 each fiscal year of the 1999 biennium.
- Expressed concern that the state provide long-term secure custodial care for chronically severely emotionally disturbed youth. The Commission requests that the DPHHS and other agencies review the results of the first biennium of the mental health managed care contract to review whether the issues have been resolved or if the needs are better defined to justify a separate proposal for the 1999 legislation session.
- Recommends that the state provide a continuum of care for the treatment of youth who are adjudicated sex offenders and that the Department of Corrections examine all possible locations and treatment options. Serious consideration should be given to where the offender population base is and to community-based treatment alternatives, even as the Department of Corrections is pursuing a program at Pine Hills through the long-range building program. If that were approved, it would be at least three years (FY 1999) before the Pine Hills program would be in operation. Pine Hills School may be a potential place for treatment in the continuum of care, if appropriate staffing can be accomplished and only when a youth needs treatment in a secure correctional facility. The Commission recommends that the sex offender population be placed under a separate population cap in order to allow treatment to be completed without pressure from the general population cap.
- Expressed concern that a continuum of care exist for mental health treatment of youth. The Commission understands that the state will be relying on the private sector through managed care to fully develop this continuum of care and to assist those who fall within the mandate of the managed care contract. There are limited funds that the state is willing and able to dedicate to treatment and the Legislature has chosen those levels. However, the Commission is concerned for those families who will not be covered by the managed care contract and may have difficulty accessing and affording mental health services. The Commission requests that the DPHHS and other agencies review the results of the first biennium of the mental health managed care contract

to review whether the issues have been resolved or if the needs are better defined to justify a separate proposal for the 1999 legislation session.

- Supports an Office of Public Instruction proposal to allocate 3% of the state's share of direct state aid to provide schools with resources to address conduct-disordered pupils through public and private community collaboration.
- Recommends that the DPHHS review the rate matrix for payment of private providers and establish a formula for regular cost-of-living increases.

OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Committee Holds Final Meeting...The Oversight Committee on Children and Families conducted its final meeting of the interim on September 16. During the meeting, the Committee finalized the recommendations that it will present to the Governor and the 55th Legislature. A final report will be prepared and available through the Legislative Services Division by January 1, 1997.

The following is a brief summary of the Committee's final recommendations for the 1995-1996 interim.

CHILD CARE

Objective: To improve the availability, affordability, and quality of child care by promoting more employer support for quality child care for their employees.

Recommendation: The Departments of Revenue, Labor and Industry, and Commerce should emphasize and more widely disseminate information to employers about the Dependent Care Assistance Credit (DCAC). Montana tax laws provide that an employer may claim a credit against the employer's personal income for amounts paid or expenses incurred for dependent care assistance provided to employees. Non-tax incentives for employers include more productive employees, less turnover, positive public relations, and other benefits. Yet, in 1995, only two Montana businesses took advantage of the DCAC. The DCAC and the other benefits to employers of supporting quality child care need to be promoted to all Montana employers.

Implementation steps:

- (1) The Committee will write a letter to the Directors of the Departments of Revenue, Labor and Industry, and Commerce, with copies to the Governor and other interested organizations, requesting that the benefits of employer-supported quality child care be more widely promoted through current publications, tax material, and business clinics.
- (2) During the second half of the 1997 Legislative Session, the Committee will convene a task force meeting and invite the participation of the Governor's Council on Families, the Governor's Child Care Advisory Council, and others. The Committee will work to facilitate an action plan for producing a policy and resource guide on child care and other early childhood services.

Objective: To improve the quality of early childhood programs through training for all licensed or registered child care providers.

Recommendation: The Department of Public Health and Human Services should, through administrative rule, require that a director of a licensed day care center, group home day care, or family home day care receive a minimum of 8 hours of department-approved training annually. Current administrative rule requires that only day care center providers must receive 8 hours of training annually. Group and family home day care providers are required to receive an initial 8 hours of orientation training but have no annual training requirement.

Objective: To remove heavy District Court caseloads as an obstacle to enforcing minimum child care standards.

Recommendation: The Legislature should enact Committee bill LC0089 to expand original jurisdiction for the enforcement of child care statutes from District Court to also include Justice of the Peace and Municipal Courts.

Objective: To provide legislative policy guidance on the use of federal child care block grant and other funds for quality child care.

Recommendation: The Legislature should enact Committee bill LC0127, amending section 52-2-711, MCA, the current resource and referral grant program, to provide for a child care quality improvement

account and grant program. Money in this account will be whatever money is specifically appropriated by the Legislature (either from federal child care block grant money such as the federal grant's 4% quality set aside or from state general funds or state special revenue funds) and money from gifts, grants, or donations. The legislation articulates that, in awarding child care quality improvement grants from the account, priority must be given to grant applications for professional training for day care or school-age care providers and for the start-up of school-age care programs. "School-age care" and "professional training" are defined in the legislation and the Department of Public Health and Human Services is directed to adopt rules to administer the grant program.

TEENAGE PREGNANCY PREVENTION

Objective: To develop and implement a state plan and support community initiatives to reduce teenage and unintended pregnancies.

Recommendation: The Governor should convene a 1997 statewide conference on teenage and unintended pregnancy. The conference should support a statewide dialogue on how best to prevent teenage pregnancy and unintended pregnancy and to initiate a community planning process that will enable coordinated community initiatives. Conference participants should be representative of all interests and perspectives from all across Montana. Selected members of the Oversight Committee on Children and Families will, if requested, work on the steering committee to organize the conference. To this end, the Committee will send to the Governor a letter formally requesting this conference.

Recommendation: The family planning media campaign aimed at reducing unintended and teenage pregnancies should be supported, but should make the following adjustments: (1) include more messages targeting teenage males as well as adult males, (2) include more messages that do not assume that a youth is sexually active but that recognize that a youth may be undecided, and (3) include more messages that reinforce abstinence.

ADOLESCENT SUBSTANCE ABUSE PREVENTION

Objective: To reduce alcohol and drug abuse among Montana's children and youth.

Recommendation: The Oversight Committee on Children and Families should continue its oversight of the Interagency Coordinating Council's pilot project, which supports one community-based primary prevention

project. The pilot project is to plan and implement a comprehensive system of preventive services to children and their families who are at risk for family violence, juvenile delinquency, substance abuse, behavioral disorders, or school failure. The pilot project grant was awarded to Missoula. The project is funded by \$60,000 each year for three years, though funding after the first year is not guaranteed. The grant requires a 20% cash match. A primary purpose of the project is to document what practices are most effective and to disseminate that information in a manner that is meaningful to communities and replicable throughout the state.

Recommendation: The Legislature should adopt Committee bill LC0087 to include ephedrine in the Schedule IV list of dangerous drugs, which will limit sale of single-entity ephedrine products to prescription only. Ephedrine is an over-the-counter stimulant drug sold in many convenience stores as a bronchodilator in the treatment of asthma. However, the drug has a history of abuse and growing usage among young people. Also, ephedrine is the primary ingredient in the illicit manufacture of methamphetamine, which is a Schedule II prescription drug, and methcathinone, which is an illegal and highly addictive drug.

INTERAGENCY COORDINATING COUNCIL ACTIVITIES

Objective: To ensure that the Interagency Coordinating Council (ICC) is comprised of the appropriate membership and is fulfilling its intended duties and responsibilities.

Recommendation: The Legislature should adopt Committee bill LC0088, which adds the Director of the Department of Corrections to the ICC's membership and which clarifies that among the ICC's duties and responsibilities is the development, maintenance, and implementation of benchmarks for state prevention programs and the development and presentation of a unified state prevention budget.

PROGRAM EVALUATION

Objective: To assist the Legislature in obtaining program evaluation information on state human services programs so that lawmakers can determine whether money spent for a program has accomplished program objectives and so that limited fiscal resources can be strategically targeted to the most effective programs.

Recommendation: The Legislature should adopt Committee bill LC0126, which establishes guiding principles for designing program evaluation of services affecting children and families. The purpose of LC0126

is to encourage agencies seeking human services program funding to clearly identify program objectives, the specific services to be provided and to whom, expected outcomes, and a strategy for how outcomes will be measured and evaluated. The bill also provides that fiscal notes on legislation for children and family services include the estimated cost of a program evaluation.

ACTIVITIES OF OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Objective: To recommend to the next Oversight Committee on Children and Families areas that should be further studied and to assess whether the Committee is fulfilling its duties and responsibilities.

Recommendation: The next Oversight Committee on Children and Families should study issues related to aging in Montana. The study should include findings and recommendations about available services, unmet needs, and related family issues.

Recommendation: As a permanent oversight committee, the Oversight Committee on Children and Families should assess whether the Committee is fulfilling its duties and responsibilities. To that end, the Legislature should adopt LC0215, which adds a performance evaluation to the statutory list of the Committee's duties and responsibilities.

COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS

Committee to Meet in October...The Committee on Public Employee Retirement Systems (CPERS) will be conducting a special educational meeting on October 25. The location of the meeting must still be determined.

Committee to Hear from Guest Speaker...The meeting is being conducted so that Committee members may hear outside opinion and analysis from a guest speaker on the various legislative proposals that the Committee has been asked to consider. The guest speaker will be Mr. Leon LaBreque of Educational Technologies, Inc., headquartered in Troy Michigan. Mr. LaBreque is managing the state of Washington's information campaign for members of Washington's Teachers' Retirement System (TRS), which recently converted from a strict defined benefit plan to a dual defined benefit plan and defined contribution plan. Educational Technologies, Inc. has been awarded a contract to educate members of

Washington's TRS about their options under the old and new Washington TRS plans.

The CPERS is inviting Mr. LaBreque to discuss with the Committee the advantages and disadvantages of defined benefit versus defined contribution plans and the different retirement plan options available to public versus private employees. The Committee is currently considering a University System proposal to require that general University System employees currently covered under the Public Employees' Retirement System (PERS) be covered instead under the Optional Retirement Program (ORP). The ORP is a defined contribution plan for faculty members.

The morning session of the Committee meeting will consist of basic presentations by Mr. LaBreque. The afternoon session will be devoted to questions and answers and Committee discussion. The meeting is open and the interested public is invited to attend.

For more information, please contact Sheri Heffelfinger at the Legislative Services Division, (406)444-3064.

LEGISLATIVE FINANCE COMMITTEE

Committee Meets in September...The Legislative Finance Committee (LFC) met in Helena on September 19 and 20 to hear a number of reports and discuss several issues, with the primary focus on the 1999 biennium general fund preliminary budget projections (Big Picture Report) and the major fiscal issues facing the 1997 Legislature. A summary of the issues discussed follows.

Committee Hears Big Picture Report...At a joint meeting of the Legislative Finance Committee and the Revenue Oversight Committee, LFD staff presented general fund preliminary budget projections for the 1999 biennium. The projections are based on present law levels of need only, i.e., the amount necessary to continue programs and services at the level of service authorized by the previous Legislature, including caseload and workload increases, as well as school enrollment increases. The projections are broadbrush general assumptions prior to detailed analysis for the session. They project an ending balance before reserves of \$9.4 million. When a reserve from the \$21 million current reserve to as much as \$50 million is recommended based on risk, the projected deficit, or shortfall for fully funding present law services, is from \$10 to \$41 million.

Among the reasons for the shortfall are a reduction in ongoing revenues to support ongoing present law expenditures and significant increases in three major areas of expenditure: human services, corrections population, and education enrollment. Increased costs of these three

programs are over \$60 million for the 1999 biennium. Revenue reductions are attributable to a small decline in the expected growth of revenues as well as tax reduction measures and the use of one-time revenue sources to balance the budget for the 1995 biennium. The projections also reflect a reduction in the estimated fund balance by the end of the current biennium from the projected \$21.8 million to \$16.1 million, largely due to estimated supplemental requests of \$8.0 million.

The report points out that although the Legislature approves an average of over \$60 million in new proposals each biennium, there is a minimum shortfall of \$10 million even before addressing these needs. Agencies have submitted requests for new proposals to the Governor in corrections, human services, and education alone that total over \$75 million. Any funding for new initiatives would require a reduction in present services, finding efficiencies in services provided, and/or new tax initiatives.

Committee Discusses Budget Stability...The LFC heard a report on the importance of and tools to achieve budget stability. Efforts to enhance fiscal stability are not simply a means to exercise prudent fiscal management, but involve measures necessary to impede the unpleasant consequences of budgetary imbalances. For 9 of the past 13 fiscal years, the state of Montana has experienced a deficit between revenues and disbursements for the combined general fund/school equalization account (SEA). Much of the increase in disbursements is a result of natural growth in expenditures due to inflation and/or caseload and enrollment increases or to spending supplementals, such as for fire suppression. Revenue growth, however, does not always keep pace with expenditure growth.

Recognizing that budgetary imbalances occur, the state can take either a reactive or proactive approach. From a reactive stance, budgetary fluctuation can be temporarily resolved through spending reductions (see 17-7-140, MCA). Essentially, the executive branch assumes control of the budget decision-making process by implementing spending reductions. During more extreme cases, the imbalance must be addressed via a special legislative session, which can cost as much as \$45,000 per day. From a more proactive stance, budgetary fluctuations can be addressed through the provision of reserve funds to be used in the case of revenue shortfalls and/or higher-than-anticipated disbursements.

National fiscal experts recommend a reserve fund balance of 3 to 5 percent of total appropriations or revenues. Because Montana's budget is implemented on a biennial basis -- resulting in considerably more risk than an annual budgeting process -- the 3 to 5 percent should be applied to biennial totals. At a minimum, the budget process should then include a general fund ending fund balance of 2.5 percent of total biennial appropriations or revenues. For Montana, with a total budget of \$2 billion, this equates to a \$50 million ending fund balance. The establishment of a budget stabilization or rainy day fund is one

mechanism to assist the state in obtaining the appropriate level of reserves. Rainy day funds essentially serve as a savings account, whereby surplus revenues are set aside during positive economic conditions to be used for offsetting budget imbalances during economic downturns. As of 1995, 45 of 50 states have made some level of commitment to establishing such a fund.

The LFC discussed this issue at length but did not arrive at any recommendations.

Committee Hears Projections for Highways Special Revenue Account...A report was presented to the LFC regarding the current budget projections for the Highways Special Revenue Account (HSRA), which shows a declining fund balance. The report cited the continuing vulnerability of this fund due to the fluctuation of revenues and expenditures which has occurred over the past several biennia and into the present. Various factors were cited in having adversely impacted this account's structural balance. Current projections, which are a reversal of projections made two years ago, point to the HSRA's declining fund balance dropping to minimum levels in the 1999 biennium and going into a deficit position in the 2001 biennium, with a negative \$14.1 million by the end of fiscal year 2001. In its response to the LFC, the Department of Transportation advised that it would not seek legislation to increase fuel taxes during the 1997 session and would have to budget within limited existing resources.

NCSL Reports on Federal Budget Actions...Michael Bird of the Washington D.C. office of the National Conference of State Legislatures (NCSL) gave a presentation on federal budget actions that will affect Montana. Mr. Bird discussed federal welfare reform in detail and also provided information on the prospects for other block grants. With regard to welfare reform, Mr. Bird said the state can choose to continue operating its Families Achieving Independence in Montana (FAIM) program approved by the 1995 Legislature for the term of the federally approved waivers that were granted to operate the program. Additional funding should also be available, which the state can use for services such as additional child care or provision of services to citizens who would no longer be eligible under the new federal law. However, this amount will be capped for at least the next six years, regardless of caseload size or change. He also stated that the state must decide quickly when and how to submit its required state plan, as the level of additional funding is steadily reduced until this plan is submitted. In addition, the welfare reform legislation placed additional requirements on states' child support enforcement activities, including information systems, for which no additional funding is specifically targeted.

Fiscal Impact of Pending Litigation Discussed...The LFC received an update on the status of two pending litigation cases: the Crow Tribe coal tax case and the Albright property tax case. The coal tax case is being

appealed to the U.S. Ninth Circuit Court, while the property tax case is scheduled for oral arguments before the Montana District Court on November 1. The coal tax case could have a significant impact on state finances if a ruling was found for the plaintiffs -- an estimated \$312 million (tax and interest). However, a final decision on the case, including anticipated appeals, is not expected until at least 1998.

Committee Hears About Year 2000 Computer Problem...A report on the potential fiscal impact of the year 2000 computer problem was presented to the LFC, which included a discussion of the technical basis of the problem, the process of converting to year 2000 compliant computer systems, the costs of conversion, and the current status of statewide efforts to address this problem. The report concluded, based on a survey of other states, that year 2000 conversion costs to the state may range from \$1 million to \$30 million. The primary concern is that the cost to Montana has not yet been identified. The Information Services Division (ISD) of the Department of Administration concurred with the report's recommendations that ISD report at the November LFC meeting regarding year 2000 statewide efforts and that ISD provide a statewide estimate of year 2000 compliance measures to the 1997 Legislature.

Job Service Centers Face Funding Reduction...Reductions in federal funding could necessitate a curtailment of public services provided by the 23 local community Job Service Centers in Montana. The Centers currently provide assistance to individuals seeking employment or filing for unemployment insurance benefits as well as working with employers and offering training programs. The state's Department of Labor and Industry received approximately six percent less in federal funds for fiscal year 1997 and anticipates further reductions for the next biennium. In addition, plans to automate the collection of claims for unemployment insurance benefits further reduces staffing needs at local Job Service Centers. Agency officials estimate that as many as 13 of the 23 local Centers could be forced to close as a result of these funding cutbacks. Other alternatives to closure are being evaluated as well as methods to continue to serve rural Montanans.

RIT Subcommittee Offers Recommendation...The LFC heard a report from the joint LFC/Environmental Quality Council Subcommittee on Resource Indemnity Trust (RIT) funding. The Subcommittee was asked to make recommendations to meet two goals:

- (1) how on-going revenues and expenditures might be brought into balance; and
- (2) how the current fund structure might be simplified.

The primary recommendation of the Subcommittee was that current statutes defining what RIT can be used for be tightened, with any RIT funds not appropriated for those purposes deposited to the general fund. This recommendation had the goal of reducing the initial impact on the general fund and on those programs that would no longer receive direct RIT funding, while allowing gradual expansion of those statutory programs over time. The Subcommittee stated that this recommendation was contingent upon the commitment by the Legislature that the amount of RIT going to the general fund be minimized. Rather than accept this recommendation as written, the LFC voted to draft a committee bill recommending that a study be performed in the interim to examine the RIT, including the criteria for choosing the programs that would receive RIT funding, and what to do with the proceeds once the \$100 million trust fund minimum balance is achieved.

The LFC adopted the other recommendations of the Subcommittee as follows:

- (1) that cash flow be improved by appropriating funds for grants and loans and water storage on an annual, rather than a biennial basis;
- (2) that the presentation of RIT information be made less complex, while maintaining descriptive and efficient provision of data;
- (3) that a letter be sent to the Board of Oil and Gas and to legislators involved in oil and gas production asking how the number of abandoned oil and gas wells might be reduced; and
- (4) make several minor statutory changes to correct statutory errors and conflicts.

SB 378 Subcommittee Makes Recommendations...The LFC heard the final recommendations of the SB378 Subcommittee and made its final decisions concerning statutory appropriations and earmarked revenue. Statutory changes necessary to implement these and previous decisions will be included in a Committee bill (LC65). Among the recommendations were to:

- Reverse a previous decision to eliminate four statutory appropriations that distribute gaming revenue to local governments.
- Put guidelines into statute for establishing and reviewing statutory appropriations.
- Deposit the seven percent of the two percent motor vehicle tax to the state special revenue fund instead of the general fund.

- De-earmark to the general fund the portions of the income tax, corporate license tax, cigarette tax, and tobacco tax currently deposited to the long-range building debt service account.
- De-earmark 0.37% of the emergency telecommunication tax to the general fund and fund DOR collection costs of the tax from the general fund.
- De-earmark to the general fund the cigarette tax currently funding DOR collection costs of the tax and fund the costs from general fund. Because other action also de-earmarks all but one distribution of the cigarette tax, 17.83 percent of the tax will be deposited to the long-range building program account. The rest will be deposited to the general fund.
- De-earmark 1.15% of the payroll tax to the general fund and fund DOR collection costs of the tax from general fund.
- De-earmark to the general fund revenue currently deposited to 19 additional state special revenue accounts and fund the programs with general fund. The largest sources of revenue include the lodging facility use tax, the cigarette tax allocated to the Department of Public Health and Human Services, the handicapped telecommunication tax, the supervisory fees paid by probationers or parolees, and charges to use Pine Hill Schools land. General fund appropriations will be provided in place of state special revenue appropriations. Under current statutes, fund balances in accounts eliminated by these actions are deposited to the general fund.
- Combine seven state special revenue accounts into three.
- Exempt 10 state special revenue accounts from future LFC review because the revenue is private funds.
- Notify the Department of Commerce that because of a projected negative fund balance in the fire protection and permitting account the fee needs to be reviewed.

LFC to Meet Again in November...The LFC set Friday, November 22 as the date for the next LFC meeting in Room 104 of the Capitol.

POSTSECONDARY EDUCATION POLICY AND BUDGET COMMITTEE

PEPB Committee Meets...At its September 11 meeting, the Postsecondary Education Policy and Budget Committee (PEPB) received an informational report on the WICHE conference in California from Senator Beck and Representative Swanson, reviewed draft university mission statements, heard a report from the university system on the feasibility of charging fees for agency services, and completed discussion of the "Issues Paper" presented at the June meeting.

Fees for Agency Services Discussed...Dr. Dick Crofts, acting Commissioner of Higher Education, presented the results of a survey of other states showing that no state receives significant fees for services. He further explained that federal law prohibits the use of fees in the Extension Service, except to recover costs of publications. The Committee made no specific recommendations but suggested that dialogue continue throughout the budgeting process.

PEPB Continues Discussion of Issues Paper...The "Issues Paper" is a summary of issues considered by PEPB through April 1996. The PEPB Committee began executive action at its June meeting and completed it in September by recommending that:

- (1) the University System, with input from the executive and legislative branches, continue development of its mission statements, goals, objectives, and measurements to foster greater collaboration among the units;
- (2) the Legislature affirm the University System's efforts to continue to emphasize faculty productivity and salary rewards, particularly in instruction;
- (3) the University System charge whatever non-resident tuition the market will bear in each unit, with the minimum being the full cost of education, in order to subsidize resident students;
- (4) the response to increasing costs and increasing debt loads should be increased student gift aid or some other form of financial aid; and
- (5) the PEPB be continued for the next four biennia.

PEPB to Meet in October...The PEPB Committee decided the next meeting will be October 7 at 9 a.m. The agenda may include executive

action on enrollment, reversions, and tuition; accountability measures; and other issues from last May's Yellow Bay Conference. The agenda may also include review of a preliminary draft of the PEPB Committee final report for the 1997 biennium.

LEGISLATIVE COUNCIL

Council Meets in September...The Legislative Council met September 12 and 13. In addition to classification and pay policies and bill drafting policies adopted and discussed elsewhere in this issue, the Council approved a Legislative Branch Information Policy and a Code of Conduct for Legislative Branch staff. These two policies now must be considered by and concurred in by the Finance Committee and Audit Committee.

In other business, the Council reviewed legislative space allocation concepts under consideration as a part of Capitol renovation planning, reviewed the budget for the ensuing biennium, discussed land board land exchange policies with Director Bud Clinch of the Department of Natural Resources and Conservation, and considered a no cost easement for utilities at a National Guard facility in Chinook.

The Council heard a presentation on standing committee minutes (Senate Joint Resolution No. 4). After much discussion, the Council voted to recommend to the House and Senate Rules Committees that they adopt a new method for keeping the minutes of standing committees. The meetings would be recorded and the tapes archived at the State Historical Society, as is the current procedure. However, instead of the summary written minutes that are currently produced, secretaries would produce a "simplified" written version of the minutes. These simplified minutes would include only the following components:

- (1) date, time, and place of the meeting;
- (2) committee members in attendance, excused, or absent;
- (3) bills heard;
- (4) list of witnesses;
- (5) bills acted upon, including amendments;
- (6) motions and votes; and
- (7) date on which the hearing notice was posted for each bill.

In addition, the list of visitors and all of the exhibits, including written testimony, would be attached to these simplified minutes. A recording log of the meeting tapes would be maintained and attached to the simplified minutes. This log would serve as an index, allowing a listener to find the exact place on the tape that the listener was looking for. If a person was interested in the testimony, the questions and

answers, or the committee discussion of a bill, that person can listen to the tapes.

To Meet Again in October...The Council set a meeting for Saturday, October 5 at 9 a.m. in Room 104 of the Capitol. The Council will discuss Capitol space planning issues, the 1997-1999 budget, and Council rule and policy changes.

Review of Capitol Space Planning Issues...The Council will review data that show the potential for the consolidation of committees. This information was analyzed as a part of the Council's request that it be available for leadership consideration at the presession caucus. Its consideration may be timely to the space discussion should committee consolidation be pursued. The Legislative Council will use its knowledge of the Capitol and its experience scheduling legislative hearing rooms to develop recommendations to the incoming session leadership, regarding space allocation for the Legislature in the Capitol. The critical decision is a buy off on the basic concepts and overall allocation proposed in the Capitol renovation. Finally, the Council will consider the division of Legislative space between the House and the Senate.

Budget Review and Approval...The Legislative Council is the approving authority for three programs, two of which are submitted for inclusion in the Governor's budget as a part of the Legislative Branch budget: Legislative Services and Legislative Committees and Activities.

Council Rules and Policies...The Council will review and approve rule and policy changes previously submitted or implicated in recent policy decisions adopted by the Council. The changes result from the mission and improvement subcommittee, the bill drafting subcommittee, prior Legislative Council directives, and branch reorganization.

LEGISLATIVE BRANCH

Legislative Branch Pay Plan Adopted...With the adoption of a pay plan for Legislative Services Division, Legislative Audit Division, and Legislative Fiscal Division employees, one major goal of branch reorganization under Senate Bill 398 is achieved. Adoption came with approval of implementation detail by the Legislative Council and concurrence in that adoption by the Audit and Finance Committees at their respective September meetings. Implementation documents followed the recommendations of the NCSL consulting team reported in the July *Interim*.

Audit Division Receives Award...The National Conference of State Legislatures presented the 1996 Award for Excellence in program evaluation to the Legislative Audit Division of the Montana Legislature for its outstanding work over the past 20 years and the influence it has had on good state government. The award was presented at NCSL's Annual Meeting in St. Louis this past July. Representative Ernest Bergsagel, chair of the Legislative Audit Committee, and Jim Pelligrini, Deputy Legislative Auditor, accepted the award on behalf of the Audit Division and its staff.

THE BACK PAGE

With the advent of the 1997 legislative session less than four month away, changes have been made by the Legislative Council to the bill drafting policies. These changes address the recent decision of Judge Thomas Honzel regarding public access to bill drafting documents. Because these changes are of interest to legislators and to the general public alike, this month's "The Back Page" discusses these changes.

BILL DRAFT POLICIES ARE CHANGING

by Bob Person, Director
Legislative Services Division

ACCESS TO BILL DRAFTING DOCUMENTS

During the summer of 1995, Judge Thomas Honzel issued an opinion in a lawsuit brought against the Legislative Council and the Environmental Quality Council requiring immediate access to bill drafting documents throughout the drafting process. Prior to this decision, the Council had allowed access only with the permission of the requestor of the bill. Judge Honzel's ruling opening legislative bill drafting documents to immediate public access is resulting in immediate changes in policy and practice of importance to legislators and the public.

To simplify the process for access to documents while minimizing interruption of staff work, the Legislative Services Division has devised a simple process to request copies of documents. All requests will be handled through Division reception (Marsha Sager). Copies of documents will be made and provided within one working day with a nominal copy cost to the requestor. Documents will be provided as they are with the understanding that they may be in the midst of the process and changing regularly. The best source of information regarding what a bill drafting request is all about is the requestor--not the request documents. However, Legislative Services will do its best to implement access to the documents efficiently.

NEW DRAFTING PROCESSES

The Legislative Council adopted the recommendation of the Bill Drafting Subcommittee to implement a new class of bill drafting request to be called a "legislator draft". A legislator may submit a drafting request,

subject to all other limits and deadlines, designated as a "legislator draft". No subject information need be provided at that time. The legislator would be required to submit a draft bill and electronic copy of the draft bill completed in a form meeting the current style requirements of the Bill Drafting Manual not later than the 20th legislative day. A draft not submitted by the 20 day deadline is canceled. Once submitted, the draft follows the normal process of review and preparation for introduction except that it receives the drafter's highest priority. All information held by the Legislative Services Division regarding a legislator draft is public. The Legislative Council will consider final rules for this process at an October 5 meeting.

PRIORITIZATION

Finally, there is a change in the prioritization of a "staff draft" that is on hold on or after the 10th legislative day. Legislative Services staff follow a rule of "first-in, first-worked on" for requests unless a prioritization rule must be followed. Bills on hold on or after the 10th day will be subject to such a special rule in that they will be given the lowest priority of the bills on the drafter's desk at the time. A rule governing this policy is also scheduled for consideration on October 5.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

OCTOBER

October 2, EQC Privatization Subcommittee, Room 104, 3 p.m.

October 3, EQC Compliance and Enforcement Subcommittee, Room 104, 8:30 a.m.

October 3, EQC Indicators Subcommittee, Room 104, on adjournment of Compliance and Enforcement Subcommittee

October 4, EQC, Room 104, 8:30 a.m.

October 7, Postsecondary Education Policy and Budget Committee, Room 104, 9 a.m.

October 14, Columbus Day observed, holiday

October 18, Revenue Oversight Committee, Bollinger Room, Public Service Commission, 1701 Prospect Avenue, Helena, 9 a.m.

October 18, Revenue Oversight Committee, Room 437, 1 p.m.

October 22, Committee on Indian Affairs, Room 108, 10 a.m.

October 23 and 24, Legislative Audit Committee, Room 437

NOVEMBER

November 5, Election Day, holiday

November 7 and 8, Committee on Public Employee Retirement
Systems, Room 104, 8 a.m.

November 14, Gaming Advisory Council, Room 325, 9 a.m.

November 22, Legislative Finance Committee, Room 104

November 28, Thanksgiving, holiday

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